
Department of Local Affairs



Strengthening Colorado Communities

Private Activity Bonds

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What are Private Activity Bonds?

- Tax-exempt bonds issued for **privately** developed projects.
- IRS allows a limited amount per state, also known as PAB "Cap" or Capacity.
- Municipalities (or Authorities) issue the bonds, but have no obligation to repay investors.
- Investors buy the bonds.
- Underwriters take the investors' \$\$, or "bond proceeds," and make a loan to the project.
- The project pays back the loan & investors get repaid with a return (interest).

Initial PAB Allocation Process

\$90 per person in the state = the "Volume Capacity"
\$444,551,040 in 2009

50% of Allocation

Statewide Authorities

- CHFA
- College Invest
- CO Agriculture Development Authority
- CO Health Facilities Authority
- CO Educational and Cultural Facilities

50% of Allocation

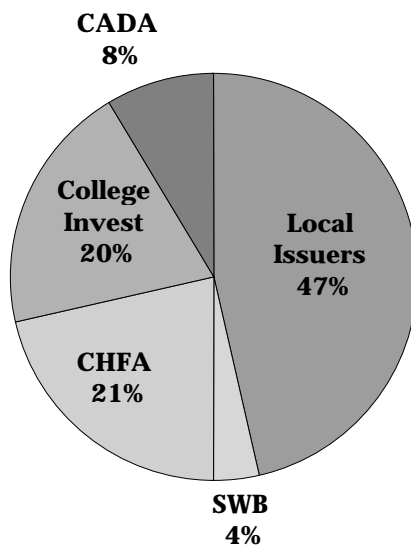
Local Governments

- 22,225 Persons or more
- \$45 per capita

Statewide Balance

Remaining cap admin. by
CO Dept. of Local Affairs

January 2009 PAB Allocation



47 Local Issuers - \$206,155,440

CHFA - \$95,200,000

College Invest - \$89,350,000

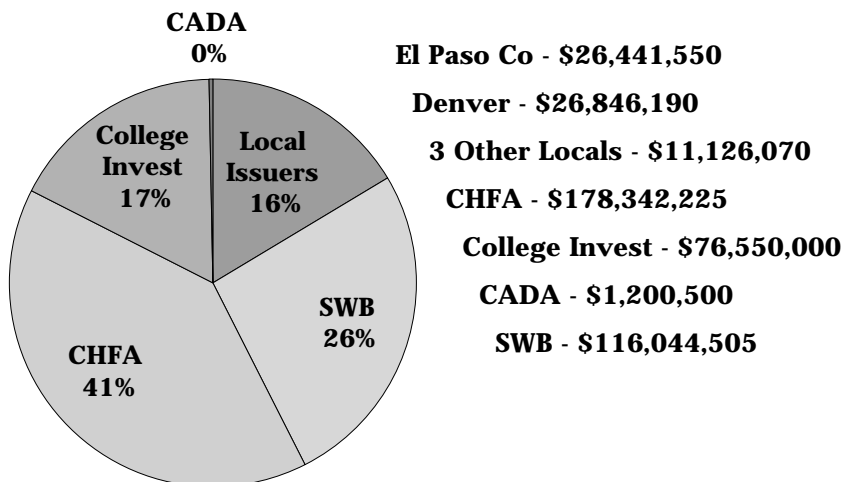
CADA - \$37,725,520

SWB - \$16,120,080

Local Issuers & Statewide Authorities

- **Receive allocation by January 15th.**
- **Est. priorities & act by September 15th.**
 - **Bond issuance** requires an inducement resolution and closing by December 23rd; OR
 - **Carry-Forward** bond cap for eligible purpose to close within a 3 year period; requires filing with IRS; OR
 - **Assign** to another issuer for eligible purpose; OR
 - **Relinquish** to Statewide Balance.
 - **If you Receive an Assignment** – must issue it or carry it forward, or it will also be relinquished 9/15.

September 15, 2009 PAB Allocation



Statewide Balance Applications

- **DOLA receives allocation by January 15th & relinquished bond cap on Sept. 15th.**
- **Monthly application cycles:**
 - February thru October, \$750 application fee.
 - 7 week process, inc. PAB Allocation Committee.
 - Relinquished bond cap distributed through October round.
- **All must close by December 23rd**
 - 0.25% issuance fee - local gov'ts no longer exempt!

Statewide Balance Applications

- **Demonstrated local need & support:**
 - Certified copy of an inducement resolution from the local government.
 - Local financial commitment of PAB allocation or other local financial subsidies.
 - Market study demonstrating need.
 - Housing Affordability – going beyond IRS requirements.

Statewide Balance Applications

- **Feasibility:**

- Reasonable costs for development & operation.
- Readiness to proceed – site controlled, local planning & zoning approved, credit enhancement secured, tax credits reserved.
- Financially sound – income/expense estimates reasonable, good underwriting ratios, sources & uses balance.
- Development team experience, capacity.

- **Typical project size is \$3 – \$25 million**

2008-09 SWB Awards

Date	\$	Note
4/28/08	2,500,000	Ross Printing IDB
4/28/08	16,802,381	El Paso County SFMRB
12/26/08	15,000,329	Boulder Co. Clean Energy SFMRB
12/26/08	23,450,000	College Invest Student Loans
12/26/08	10,000,000	HERA /Denver MCC
12/26/08	142,225,095	HERA /CHFA Housing Programs
5/4/09	9,000,000	Crowley Co. & Kingston Energy
5/4/09	7,120,080	Grand Co. MCC

CO's PAB Statute is Changing...

- All Direct Allocations available by 1/15.
- Program Fees re-written to allow:
 - Direct Allocation Fee (paid at bond issuance)
 - SWB Application Fee (no change)
 - SWB Issuance Fee now apply to ALL recipients
 - Reserves of up to 3x annual budget
- Easier for DOLA to contract for help reviewing Industrial Development Bond applications.

Private Activity Bonds for Local Officials

Multi-Family Rental Housing

Colorado Housing and Finance Authority

Using Private Activity Bonds for Multi-Family Rental Housing

- ▼ One component in the overall housing plan for any jurisdiction.
- ▼ Based on the jurisdiction's housing needs, Multi-Family Affordable Rental Housing can provide much needed support for clean, safe housing for those with lower incomes.
- ▼ Not all housing resources are created equal. Resources must match the housing plan for the local jurisdiction.

Populations Served

- ▼ Family
- ▼ Senior
- ▼ Transitional
- ▼ Special Needs
- ▼ Mixed Populations

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Income Levels

Area Median Income (AMI): The maximum amount of income by family size as provided by Housing and Urban Development (HUD).

<u>Summit County</u>	<u>Family of 4</u>	<u>Max 2-bd Rent</u>
• 100% AMI	\$85,100	\$1,915
• 60% AMI	\$51,060	\$1,149
• 50% AMI	\$42,550	\$ 957

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Project Types

- ▼ New Construction
- ▼ Acquisition
- ▼ Acquisition/Rehabilitation

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Financing with Private Activity Bonds

Loan Types

- ▼ Construction Only
- ▼ Construction/Perm
- ▼ Permanent Only

Bond Structures

- ▼ Public Traded or Privately Placed Offering
- ▼ Credit Enhanced / Unenhanced

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Benefits of Using Private Activity Bonds

- ▼ A resource allocated to qualifying municipalities that can be used in a variety of ways to address critical community needs.
- ▼ Widely accepted method for generating and/or importing capital into Colorado.
- ▼ Lower cost of capital for housing transactions.
- ▼ Ability to leverage with the Low Income Housing Tax Credits for the equity piece of the transaction.
- ▼ An increasing number of opportunities exist in all submarkets for properties serving 40% - 50% AMI and some 60% AMI levels.

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Challenges of Using Private Activity Bonds

- ▼ Limited availability of PAB within the local jurisdiction and prioritization of competing uses.
- ▼ Technical Expertise Required
 - Jurisdiction Staff
 - Development Partners
 - Lenders/Other Professionals
- ▼ Market Rents vs. Restricted Rents
- ▼ Transaction Costs vs. Property Size

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Transit Oriented Development

- ▼ What is Transit Oriented Development and what does it mean for your area?
- ▼ PAB can be used to target specific housing needs in conjunction with local transportation plans.
- ▼ Currently there is more than \$62.0 MM pool of Volume Cap set-aside to finance MF projects along TOD sites, including \$4.7 million from Westminster.
- ▼ An increasing number of opportunities exist in all submarkets for properties serving 40% - 50% AMI and some 60% AMI levels.

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Benefits of Partnering with CHFA

- ▼ The ability to assign cap to CHFA for a specific project
- ▼ CHFA can carry forward cap for a period of 2 years
- ▼ Developers can utilize various types of financing including:
 - ▼ CHFA as a direct lender, utilizing various credit enhancement options;
 - ▼ Conduit transactions where developer selects lender and credit enhancement provider;
- ▼ CHFA can offer economies of scale for bond issuance by providing pooled financing structures and streamlined bond documents

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CHFA

*'financing the places where
people live and work'*

Private Activity Bonds for Local Officials

Single Family Housing

Colorado Housing and Finance Authority

Single Family Uses for PAB

- ▼ Single Family Mortgages
- ▼ Mortgage Credit Certificates
- ▼ Energy efficiency improvements

IRS Requirements for Programs Funded with Tax Exempt Bonds

- ▼ Any local issuer can design a single family mortgage program but must comply with all IRS requirements but need not be the same program
- ▼ Typically single family programs are available from CHFA, Metro Mayor's Caucus and El Paso County
- ▼ Must be first time homebuyer or a qualified veteran
- ▼ Must have income limits
- ▼ Must have purchase price limits
- ▼ Must make funds available in targeted areas (non-first time homebuyers can use tax exempt financing in a targeted area)

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CHFA's Current Use of PAB: CHFA Statewide Mortgage Credit Certificate Program

- ▼ Homeowners can take a credit equivalent to 20% of the mortgage interest they pay each year. The credit is applied each year towards their federal income tax liability for as long as they reside in their home as their primary residence.
- ▼ Remaining 80% mortgage interest paid each year is still a deduction
- ▼ Income and purchase price limits by county
- ▼ Can be used with any stable first mortgage program not funded by tax exempt bonds, ie. any non-tax-exempt-bond-funded CHFA program, FHA/VA/USDA Rural Development, longer term ARMs, bank portfolio programs
- ▼ CHFA is funding MCCs with HERA PAB cap, so higher income and purchase price limits
- ▼ HERA PAB also permits use of MCC with a refinance of an existing ARM loan if originated after 12/31/01 and before 1/1/2008
- ▼ Can re-issue an MCC if the borrower refinances the original first mortgage and is still residing in the home.

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Future CHFA Single Family Uses of PAB

- ▼ **Habitat for Humanity:** CHFA purchases and subsequently services at no charge, 0% interest loans from Habitat for Humanity Affiliates around the state. This model allows Affiliates a faster recovery of capital and tremendously expands their building program.
- ▼ **CHFA Home Access :** First time homebuyers who are disabled or are the parent(s) of a disabled child(ren) may be eligible. First mortgage loans may be subject to the recapture tax provision, however it is reimbursable by CHFA. The program has income and purchase price limits. All borrowers have access to a sizeable, deferred second mortgage. Very low-income first time homebuyers may be eligible for a very low interest first mortgage and a sizeable second mortgage for down payment assistance.
- ▼ **CHFA Section 8:** First time homebuyers receiving Section 8 assistance through a public housing authority offering a HUD approved homeownership program. The Section 8 payment is used as income or as an offset for the housing expense, depending on whether or not the borrower is disabled. Second mortgages for down payment assistance are available, with various terms depending on whether or not the borrower is disabled.

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Special Features

- ▼ **Homebuyer Education required for all homebuyers**
 - ▼ Over 30 agencies provide statewide service
 - ▼ Online Financial Management and Homebuyer Education available 24/7
 - ▼ Education paid by CHFA – expands capacity of non-profit or housing authority; over \$3 million paid for education since 2000
 - ▼ Education is key to reducing mortgage defaults by empowering homebuyers
- ▼ **Over 1600 loan officers statewide can offer CHFA loans to homebuyers**
 - ▼ CHFA interest rates are the same from any CHFA lender.
 - ▼ Limited administrative fees charged by a CHFA lender to the homebuyer.

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Special Features

- ▼ **Various loan types are available with CHFA**
 - ▼ FHA or conventionally insured
 - ▼ VA or USDA RD guaranteed
 - ▼ Special programs: FHA 203-K and Energy Efficient Mortgages and USDA RD rehab loans
- ▼ **CHFA funds available every day**
 - ▼ Interest rates adjust with market changes
 - ▼ Easily used with other down payment assistance programs locally or statewide
 - ▼ PAB set-asides available in the transferring community for 2 years
- ▼ **Optional second mortgage for down payment and closing costs available with all CHFA programs at the same interest rate as the first mortgages, 30-year term, monthly payments**
 - ▼ Nearly eliminates predatory home equity lines of credit
 - ▼ Increases loss mitigation options

Special Features

- ▼ **Local servicing**
 - ▼ Walk-in Customer Care Center in Denver
 - ▼ Payments accepted in CHFA's Grand Junction office
 - ▼ Bi-lingual staff
 - ▼ Monthly statements and On-line access to accounts
 - ▼ Payments can be made on-line or through Western Union (for a small fee)
 - ▼ Budget drafting (biweekly ACH payments) available
 - ▼ Low default and foreclosure rates
- ▼ **Recapture tax reimbursement for tax exempt bond funded loans**

What is CHFA offering NOW without tax exempt bond funding?

- ▼ CHFA is committed to providing affordable financing options.
 - ▼ FHA, VA and USDA-RD first mortgages placed in Ginnie Mae MBS pools
 - ▼ General funds for down payment and specialty programs
- ▼ **CHFA HomeOpener/HomeOpener Plus:** CHFA's market rate first mortgage, available to first- and non first-time homebuyers. Optional downpayment and closing cost assistance for up to 3% of the mortgage amount. Income limits apply; no purchase price limits.
- ▼ **CHFA JumpStart:** First time homebuyers borrow from CHFA in the form of a *free* second mortgage if they repay the second mortgage with their federal First-Time Homebuyer Tax Credit refund. Works with CHFA's market rate first mortgage.
- ▼ **CHFA HomeAccess:** Disabled first-time homebuyers receive a \$25,000, zero percent (0%) interest second mortgage with CHFA's market rate first mortgage.
- ▼ **CHFA SectionEight:** Market rate first mortgage for first time homebuyers, disabled and non-disabled, who use Section 8 assistance through a public housing authority offering a HUD approved homeownership program. Optional second mortgage for down payment assistance. Terms vary depending on whether the borrower is disabled.

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Why transfer to CHFA when we can't issue bonds?

- ▼ Acting now on the 2009 PAB allows for future use in your community.
- ▼ Transfer 2009 PAB to CHFA for *any* purpose and CHFA will create a "set aside" for MCCs within the existing program Statewide MCC program equivalent to amount of assignment.
 - ▼ Allows potential benefit immediately to the community; and
 - ▼ What isn't used through the set aside will be available as assigned if CHFA can issue bonds in the next two years
 - ▼ CHFA will pay the costs of the MCC election
 - ▼ Communities receive benefits of HERA PAB that they don't have with regular allocation
 - ▼ MCCs can be used with any CHFA non tax-exempt bond funded mortgage program or other stable mortgage program
- ▼ The bond market won't stay frozen forever; don't be sorry your community did not utilize its 2009 allocation in your community.

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Questions

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Private Activity Bonds for Local Officials

“Other Uses”

Colorado Housing and Finance Authority

Private Activity Bonds Strengthen Communities

- ▼ Private Activity Bonds are designed to offer low-cost financing that encourages private sector investment in communities throughout the country.
- ▼ PABs encourage investment in projects that increase the tax base of a local community, including:
 - ▼ Housing
 - ▼ Economic Development/Manufacturing
 - ▼ Higher Education
 - ▼ Infrastructure; and,
 - ▼ Environmental Projects

Categories of Private Activity Bonds

- ▼ Qualified Mortgage Bonds (Single-Family Housing)
- ▼ **Qualified Small Issue Bonds**
- ▼ **Qualified Redevelopment Bonds**
- ▼ **Qualified Student Loan Bonds**
- ▼ **Exempt Facility Bonds**
- ▼ Qualified 501 C 3 Bonds (Non-Profit)
- ▼ Qualified Veterans' Mortgage Bonds

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How Local Municipalities in Colorado use Volume Cap?

- ▼ In 2008, local authorities used their annual allocation as follows:
 - ▼ Single Family Housing: 46.5%
 - ▼ Multi-Family Rental Housing: 18.5%
 - ▼ Manufacturing: 3%
 - ▼ Multi-purpose Carry forward: 14%
 - ▼ Relinquished to SWB: 18%

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Qualified Small Issue Bonds (IDBs / Manufacturing)

- ▼ Industrial Development Bonds are revenue bonds targeted to manufacturers or companies that assemble, fabricate, manufacture or process a product for resale.
- ▼ Purpose of Funds:
 - ▼ Acquisition of Land
 - ▼ New Construction of Facilities, Buildings
 - ▼ Acquisition of Machinery, Equipment, Furnishings
 - ▼ Soft Costs

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Qualified Small Issue Bonds (IDBs / Manufacturing)

- ▼ Economic Development Tool for local communities.
 - ▼ Business Attraction and Retention
 - ▼ Job Creation/Job Retention
 - ▼ Capital Investment/Increases tax base

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IDB Projects Financed with Private Activity Bonds

Walker Manufacturing

- ▼ \$4,000,000 transaction located in Fort Collins, Colorado.
- ▼ Independent, family-owned manufacturer, specializing in mowers and customized agricultural related equipment.
- ▼ 44,000 SF Manufacturing Facility; machinery and equipment.
- ▼ 169 Jobs



Leitner-Poma of America

- ▼ \$15 million transaction located in Grand Junction, Colorado (\$8 million in tax exempt).
- ▼ Poma of America engineers, manufactures, installs and services all types of ropeway systems and gondolas for the ski industry, amusement parks, and urban transport.
- ▼ 90,000 square foot design, manufacturing, and service center facility/plant.
- ▼ 100 existing jobs, 100 new jobs

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CHFA

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PRIVATE ACTIVITY BONDS FOR LOCAL OFFICIALS

Issuing Private Activity Bonds

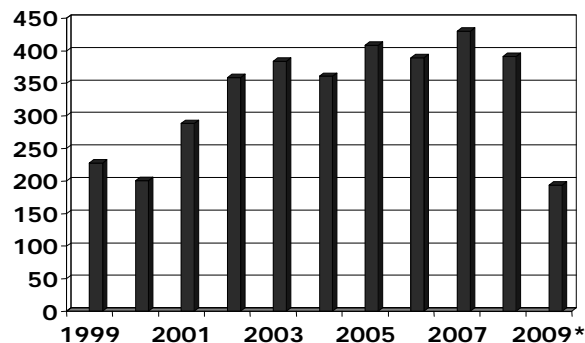
August, 2009

Presentation By:

Fred Marienthal – Kutak Rock LLP
Stan Raine – Sherman & Howard LLC

Tax Exempt Bond Market

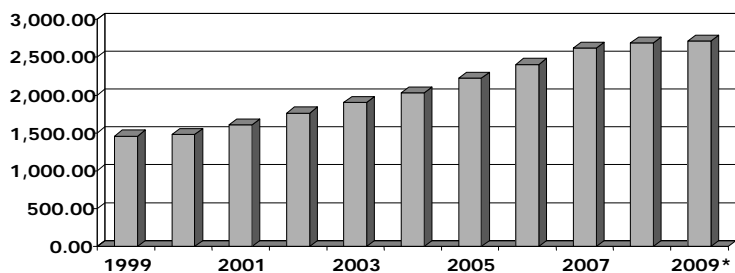
Annual Bond Sales



* January-June (Down 16.2% from 2008)

Tax Exempt Bond Market

Holders of Bonds

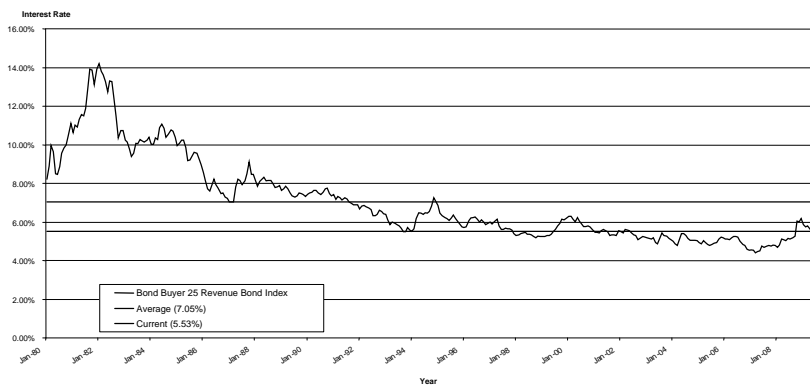


*Through March 31, 2009

Tax Exempt Bond Market

Interest Rate History

Bond Buyer 25 Revenue Bond Index History Since 1980
(as of June 1, 2009)



Tax Exempt Bond Market

2008 PAB Issuance Fell 52% From 2007 Levels

Mortgage Programs	Multifamily Housing	Mortgage Credit Certificates	Industrial Development	Student Loans
\$3,704.7	\$1,285.8	\$377.0	\$1,266.3*	\$1,547.8

Source: 2008 National Volume Cap Report, Council of Development Finance Agencies

Figures are in millions of dollars

*2007 issuance was \$3,080.8, a 58.9% decline

Steps for a Typical Bond Issuance

Step 1 - Issuer analyzes proposed issue with Borrower, Financial Advisor, Bond Counsel and Underwriter.

Step 2 - Issuer adopts a resolution stating its intention to proceed with the financing and to formally engage members of the financing team. If required, Issuer applies for State Volume Cap Allocation.

Step 3 - Drafting is begun on the bond documents and offering documents (the Preliminary Official Statement). Cash flows and documents are sent to rating agencies. Rating agency discussions or investor meetings take place.

Step 4 - Financing structure and documents are finalized. State Volume Cap Allocation is received and TEFRA hearing is held by Issuer. Parameter Bond Resolution is adopted.

Step 5 - Preliminary Official Statement is mailed; Bond issue terms are discussed among the Issuer, Borrower, investors and the Underwriters.

Step 6 - Bonds are offered by the Underwriters to investors. Bonds are underwritten at interest rates and terms agreed to by the Issuer and Borrower. Bond Purchase Agreement is executed among the Issuer, Borrower and Underwriters.

Step 7 - Bond issue is closed. Underwriters wire bond purchase price to Trustee and take delivery of Bonds.

Step 8 - Bond proceeds are available to be spent by Borrower.

Parties to Transaction

- Issuer
- Borrower
- Underwriters
 - Senior Manager
 - Co-Managers
 - Sales & Trading
- Financial Advisor
- Bond Counsel
- Disclosure Counsel
- Underwriters' Counsel
- Issuer's Counsel
- DTC
- Rating Agencies
- Trustee
 - Paying Agent/Registrar
 - Authenticating Agent
- Bondholders
 - Retail
 - Bond Funds
 - Institutional Investors
- Credit Enhancer
- Liquidity Provider
- GIC Provider/Broker
- Swap Provider/Advisor
- CPAs

Documents

- Loan Agreement
- Trust Indenture
- Resolution/Ordinance
- Tax Regulatory Agreement
- No Arbitrage Certificate
- IRS Form 8038
- Official Statement
- Bond Purchase Agreement
- Opinions
 - Bond Counsel
 - Disclosure Counsel
 - Issuer's Counsel
 - Borrower's Counsel
- Credit and Liquidity Agreements
- Continuing Disclosure Undertaking
- GICs and Swaps
- Collateral Security Documents
- Third Party Reports
 - Feasibility Report
 - Phase I Environmental Report
 - Title Insurance
 - Survey
 - Appraisal
 - Engineer's Report

The American Recovery and Reinvestment Act of 2009

ARRA Provisions Applicable to PABs

- Changes in the Definition of “Manufacturing Facility”
- AMT Repeal
- Adjusted Current Earnings Repeal
- *De minimis* Safe Harbor Exception
(2% of adjusted basis in bonds divided by banks average annual adjusted basis in all assets)
- Recovery Zone Facility Bonds
- The Colorado Recovery and Reinvestment Finance Act of 2009 (House Bill 09-1346)

Miscellaneous Stuff

- Derivatives
- Blue Sky
- Post Issuance Compliance
 - Rebate
 - Continuing Disclosure
 - Recordkeeping and Retention
- Lore vs. Law
- Bond Politics
- Things that go bump in the night
 - Defaults
 - IRS Audits
 - Change in Use
 - Post Issuance Modifications and Reissuance
 - “Market Dislocations”